UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD DIVISION OF JUDGES ATLANTA BRANCH OFFICE

THIRD GARAGE, LLC

and Case 16-CA-24373

TEAMSTERS LOCAL UNION 657 affiliated with INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Jamal M. Allen and Nam Van, Esqs., for the General Counsel. Robert L. Ivey, Esq., for the Respondent. Mr. Pablo Cruz for the Charging Party.

DECISION

Statement of the Case

George Carson II, Administrative Law Judge. This case was tried in Harlingen, Texas, on March 20 and 21, 2006. A consolidated complaint in this case and Case 16–CA–24655 issued on February 28, 2006. At the outset of the hearing, the parties advised that Case 16–CA–24655, which involved allegations similar to those in this case but at Arlington, Texas, had been settled, and the General Counsel moved to sever that case. I granted the motion, remanded Case 16–CA–24655 to the Regional Director of Region 16, and amended the caption of this case to reflect that it relates only to Case 16–CA–24373.¹ The complaint alleges that the Respondent made certain statements that violated Section 8(a)(1) of the National Labor Relations Act, failed and refused to hire seven named applicants for employment in violation of Section 8(a)(3) of the Act, and failed and refused to recognize and bargain with the Union in violation of Section 8(a)(5) of the Act. The Respondent's answer denies that it violated the Act. I find that the Respondent did violate the Act substantially as alleged in the complaint.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent,² I make the following

¹ All dates are in the year 2005 unless otherwise indicated. The charge was filed on July 8 and was amended on July 12, August 29, and October 3.

² The brief of the General Counsel contains several factual errors including, on page 2, referring to the Charging Party Teamsters Local Union 657 as Electrical Workers Local 657. The brief incorrectly states, at footnote 1, that the hearing herein was held in Austin, Texas, on February 6 and 7, 2006. At page 26, it refers to a nonexistent Respondent's Exhibit 13 and cites employment numbers and names inapplicable to the Harlingen unit. I am mindful that, in this age of computer technology, copying from prior documents saves time, but proofreading is still required. The Respondent's brief does not cite transcript pages or exhibit numbers relative to its various arguments. None of the foregoing shortcomings have any bearing upon my decision.

Findings of Fact

I. Jurisdiction

The Respondent, Third Garage, LLC, Third Garage, is engaged in providing pickup and delivery services for DHL Worldwide in and around Harlingen, Texas. Third Garage annually derives gross revenues in excess of \$50,000 for its services, the transportation of freight in interstate commerce, pursuant to its contract with DHL, an entity directly engaged in interstate commerce. The Respondent admits, and I find and conclude, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

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The Respondent admits, and I find and conclude, that Teamsters Local Union 657 affiliated with International Brotherhood of Teamsters, the Union, is a labor organization within the meaning of Section 2(5) of the Act.³

II. Alleged Unfair Labor Practices

A. Background

Third Garage, in Harlingen, provides courier delivery services to DHL Worldwide, an international shipping company. DHL subcontracts the courier delivery of its packages. DHL packages addressed to locations in the Rio Grande Valley are shipped to the Valley International Airport in Harlingen. DHL designates the routes handled by the delivery drivers who wear yellow DHL shirts and who drive yellow trucks identified as DHL. The eastern part of the Rio Grande Valley, including Harlingen and Brownsville, Texas, is designated as Harlingen with 11 routes. The western part is designated as McAllen with approximately 17 routes.

Prior to July 5, the courier delivery service for both the Harlingen and McAllen routes was provided by Act Fast Delivery of Corpus Christi, Inc., Act Fast. Early in 2005, the Union began organizational activity among the employees of Act Fast. A representation petition was filed on February 22, an election was held on April 5, and on April 13 the Union was certified as the exclusive collective bargaining representative of the delivery drivers of Act Fast.⁴

In May of 2005, Act Fast informed DHL that it was not going to renew its contract and would cease operating in Harlingen and McAllen at the end of June. Although Act Fast had employed all drivers on both the Harlingen and McAllen routes, DHL sought separate bids for the Harlingen and McAllen routes. Third Garage bid for both contracts, but it was awarded only the Harlingen contract. An entity, referred to as King, was awarded the McAllen contract.

Third Garage, the successful bidder for the Harlingen contract, was formerly a sole proprietorship. It was incorporated by its owner, John Ray, in June. Ray is a partner with Accenture, a consulting business. He has various other interests including automobile racing, the equipment and supplies for which he keeps in his "third garage" which accounts for the name of the Respondent. Ray explained that he became interested in the entrepreneurial

³ The name of the Charging Party was amended to reflect its absence of affiliation with the AFL-CIO

⁴ The description of the appropriate unit is: Included: All delivery drivers employed by Act Fast Delivery of Corpus Christi, Inc., at its facility at 3302 Heritage Way in Harlingen, Texas. Excluded: All other employees, including office employees, guards, managers and supervisors as defined in the National Labor Relations Act.

activity of a courier service after attending a seminar conduced by DHL. He had no prior experience in operating a courier service. Ray admitted that he was aware that the employees of Act Fast were represented by a labor organization.

On July 5, Third Garage began operating with 10 drivers, five of whom had been Act Fast drivers. The complaint alleges that Act Fast denied employment to the remaining six Harlingen Act Fast drivers in order to avoid incurring a bargaining obligation with the Union.

B. Facts

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When Act Fast obtained the DHL contract, Larry Sleeper, Executive Vice President of Act Fast Harlingen, received a recommendation from DHL Station Services Manager Hugo Moya and his superior in San Antonio that Act Fast hire the drivers of the predecessor "because they were already trained and knew the routes and it would be a smooth transition for us." Moya made no such recommendation to Third Garage.

Upon being awarded the contract, Owner John Ray placed separate advertisements in a local Harlingen newspaper for drivers, supervisors, and a manager. The advertisement for drivers states:

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Looking for full-time individuals to drive vans for local package pickups/deliveries. Earn \$20-25K per year. No experience necessary. Training is provided. Must be professional, willing to work in a team environment, and have local street knowledge. Pickup applications at DHL, 3302 Heritage Way, Harlingen, TX 78550 (reference ThirdGarage LLC)

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The advertisements were published beginning Monday, June 13. Current drivers had not been informed that Act Fast was ceasing operations and were not informed that Third Garage was soliciting applications. A schedule that Ray prepared reflects his intention to "Interview New Couriers & Managers: June 23-27" and "Interview Existing Couriers & Managers: June 28." The schedule set candidate training and evaluation for June 29 through July 1 and employment notification for July 1. In actuality, training began on June 27. The applications distributed at the DHL office were three page applications, a first page for personal information including name, address, and telephone number, a second page (with continuation pages) for two references and employment history, and a third page that set out various policies including at-will employment, a drug testing requirement, and an equal opportunity declaration.

Although, as the Respondent points out in its brief, Ray requested the opportunity to introduce himself to the current Act Fast couriers about a week prior June 28, the schedule he prepared reflects that he did not intend to begin interviewing the current Act Fast couriers until June 28, one day before the non-Act Fast applicants were scheduled to begin training. Arrangements were not made for Ray to introduce himself until June 28. On June 28, Act Fast Area Manager David Maldonado announced that Act Fast was ceasing operations. He introduced Ray who spoke a little about himself and invited the Act Fast employees to submit applications. He made no comment regarding hiring. Ray admitted that the applications provided did not include the second page requesting two references and giving employment history. All of the current Act Fast Harlingen couriers submitted applications on June 28.

In response to the newspaper advertisement, Third Garage received approximately 300 applications, and Ray interviewed approximately 50 of the applicants. He began interviewing applicants at a motel during the week of June 20. Ray requested six of the driver applicants that he interviewed, including Joey De Los Santos, whose application is dated June 16, and Rosalva

Quintana, whose application is dated June 20, to come to the DHL facility on June 27 to begin training. The driver applicants completed paperwork, were briefed about DHL, and were shown how to use the scanners and perform the paperwork required for pickup and delivery of DHL packages. On Wednesday or Thursday, June 29 or 30, they were given the opportunity to ride on a route with an Act Fast employee. Quintana recalls that Ray cautioned the applicants that "it was very sensitive, that the [Act Fast] guys didn't know who was going to be there, or whether or not they would have a job, so just try not to say anything." De Los Santos testified that there were five couriers in addition to himself in training. Quintana confirmed that there were "approximately six of us." Ray did not dispute the foregoing testimony, nor did he testify to the number or identity of the applicants whom he asked to go through training. On Saturday, July 2, a hazardous material training session was held in the conference room of a local motel. This training session included drivers for King, the successful bidder for the McAllen routes. De Los Santos and Quintana noticed that one of the drivers who been in training was absent. That applicant, according to Quintana, "didn't continue with us."

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On the morning of July 29 or 30, immediately before the applicants that Third Garage had been training were offered the opportunity to go on a route with Act Fast employees, Ray spoke separately to the Harlingen drivers, requesting that they volunteer to take a back-up driver on their route "in case somebody didn't decide to stay on." Employee Enrique Prieto stated that the Act Fast drivers "had no intention of going nowhere." Employee Jorge Delgado recalled that Ray answered by stating, "It was up to Act Fast." Prieto recalls that Ray repeated that they were observers, "back-up driver[s] in case some of us did not want to stay on."

For 5 years, until July 18, Hugo Moya was Station Services Manager for DHL at
Harlingen. He recalls meeting with Ray in early June shortly after he learned that Third Garage had been awarded the Harlingen routes. They spoke about the operation and Moya gave him a tour of the facility. Either at that first meeting or at a meeting shortly thereafter, Moya testified that Ray stated his intention to hire five out of the 11 drivers "to hire, rehire, at least 49 percent of the workforce," and that he was going to do that "[t]o stay union free." He requested that
Moya recommend five of the drivers and Moya named "the five strongest performers." He recalls electronically mailing the names to Ray at a later date. After the Act Fast employees submitted their applications, Ray repeated his request that Moya name "the five strongest performers," that he did so and, as he was doing so he observed that Ray pulled out the applicable application and wrote a "Y" next to the name of each individual that he named.

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Ray denies making any statement regarding 49 percent. He admits speaking with Moya regarding the performance of the Act Fast employees. He did not deny asking Moya to identify the five strongest performers or writing a "Y" next to names of the five individuals Moya named.

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The Respondent, in its brief, argues that Moya was not credible pointing out that, in a pretrial affidavit, he asserted that that Ray referred to having talked to his lawyer who told him "that if he only hired 49 percent of the Act Fast workers ... his company would be union-free," but that he admitted that he had misattributed that remark to Ray when it was actually made by a DHL manager. Despite the misattribution, Moya steadfastly maintained that, when Ray stated his intention to hire no more than five current drivers, the five strongest performers, he also stated his intention to hire only 49 percent of the workforce in order "[t]o remain union free." The Respondent points out that Moya resigned from DHL at the request of DHL after reports were made that he had made statements to employees to the effect that it was bad that they had selected the Union as their collective bargaining representative. Moya effectively acknowledged making those remarks, explaining that "being in the Dallas region, I know there's a strong anti-union feeling coming from the regional office, and I knew ... at some point or another ... DHL would bring in contractors to clean house." I need not speculate as to whether Moya's purported

understanding of what DHL would do was incorrect or whether the request for his resignation constituted an attempt by DHL to make it appear that his understanding was incorrect. In either case, Moya's purported understanding does not establish animus on the part of Third Garage. That animus, as hereinafter discussed, is established by the actions of Third Garage.

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I credit Moya's undenied testimony that Ray specifically requested that he recommend five drivers, the five strongest performers, and that Ray placed a "Y' next to the names of the five drivers that Moya recommended. I credit Moya's testimony that Ray requested that he recommend only five drivers. Whether Ray stated his intention to hire no more that 49 percent of the Act Fact drivers in order to stay union free is immaterial. That is what he did.

Ray testified that he asked both Moya and the Act Fast managers about "the general performance of the existing drivers." He testified that they provided "feedback that this guy is a very good driver, ... [that] they has some issue with this guy, ... just general comments." Ray did not testify to any specific comment made or identify any driver with whom Moya or an Act Fast manager had an "issue." He did not identify any Act Fast manager with whom he spoke. Regarding his decision not to hire the Act Fast drivers who were not offered positions, Ray was asked, "It didn't have anything to do with performance-related reasons regarding how they did their job. Correct?" Ray answered, "Correct."

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Although Ray testified that he spoke with Act Fast managers, none of whom he identified, regarding the drivers, Act Fast Regional Manager Patrick Woods recalled that he spoke with Ray about vehicles, that Ray did not ask for any recommendation or reference with regard to employees. Act Fast Area Manager David Maldonado, who introduced Ray to the Act Fast employees on June 28, testified that Ray did not request any recommendations from him. I credit their testimony.

Ray testified that his hiring decisions were based upon "core values" that included "stewardship, hire the best people, respect for the individual, integrity, you know, best place to work, and deliver the most value for the clients." He sought to make sure that "we select the best people and create an environment that, you know, is based on those core values."

Although Ray completed a document titled "Interview Summary" for those applicants that he selected to interview from among those who had responded to the newspaper advertisement and for the six Act Fast Harlingen drivers that were not hired, there is no evidence that he did so for the five Act Fast drivers named by Moya. Those applications contain brief handwritten notes on the top of the application, but no "Interview Summary."

Third Garage hired the five drivers whom Moya named after Ray requested that he name "the five strongest performers." There is no credible evidence that they were interviewed. The five were Javier Cruz, Reymundo Garcia, Ruben Garcia, Juan Olivarez, and Mario Pena. All are still working for Third Garage. None testified. The six other Harlingen drivers all applied and were, despite Ray's failure of recollection regarding one of them, interviewed. All testified.

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Jorge Delgado had worked for Act Fast for over a year, since March 8, 2004. He filed an application on June 28. He was paged to the Act Fast office for an interview with Ray, but was intercepted by Hugo Moya who told him, in Spanish, that he, Moya, needed to speak with Ray first. At some point, Delgado was interviewed by Ray for about 10 minutes. The Interview Summary sheet, filled out by Ray, reports that Delgado had no ready response to a question on the sheet regarding how the person being interviewed had handled a situation with a difficult customer. Ray noted that he suggested to Delgado that he would apologize. Ray testified that he expected "to get a more kind of clear example based on the amount of experience the

person has." He did not comment upon Delgado's response about "helping others" in response to the question about working as a team. He noted that Delgado "had issues with management being honest." On July 4, Ray left a voice message on Delgado's cellular telephone stating that "[d]ue to some legal issues and feedback from DHL" that he would not be offered a position."

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Margarito Garcia had worked for Act Fast for two years and drove a Brownsville route, route 117. He submitted an application on June 28. He had a short interview with Ray on either June 29 or 30. Garcia arrived early, before the facility opened, and he and Ray spoke outside of the building. The Interview Summary reports that Ray had a "3 minute conversation" and that the "criminal record search showed results." Ray testified that "he didn't spend a whole lot of time" with Garcia because his background check showed a marijuana charge. The charge was misdemeanor possession of less than two ounces of marijuana. The Criminal Docket regarding Garcia was closed on December 15, 2003, with the following entry: "Case dismissed by court. Defendant completed deferred adjudication." Garcia heard nothing from Third Garage and reported to work on July 5. Ray told him that he was no longer employed.

Regarding Garcia, Ray was aware of the charge, not the disposition of it. When asked what prompted him to factor that charge into his determination regarding hiring Garcia he replied, "Well, there are legal requirements as relates to my contract with DHL that define things I need to consider as it relates to my contract with them, one of them being background checks and having, you know, items that would in no way kind of, you know, jeopardize the role and the position they have in representing DHL." The agreement with DHL does prohibit employment of individuals convicted of either misdemeanors or felonies involving violence or dishonesty or whose "motor vehicle records that are inconsistent with Contractor's safe driving requirements." Garcia's misdemeanor offense was dismissed after completion of deferred adjudication. The agreement with DHL would not prohibit his employment. He was working for Act Fast. On August 4, Third Garage hired Juan Gonzales who, on January 28, 2002, had entered deferred adjudication upon a charge of possession of more than 5 pounds but less than 50 pounds of marijuana and been placed on probation for 6 years. On June 6, 1998, Gonzales had pled guilty to driving while intoxicated.

The applications of each of the six Act Fast drivers who were not hired reflect, in Ray's handwriting, their birthdates and the results of a criminal background search. Although, with one exception, Ray claimed that he performed similar searches on all applicants, the results are not written on the applications. Third Garage did not produce any other documents upon which the results of a background search were recorded. Ray admitted that he failed to perform a background search on Juan Gonzales.

Diego Longoria had been working for Act Fast for about 6 months. He filed an application on June 28. On Thursday, June 30, Longoria reported to work before the facility opened. Ray was present and interviewed him outside of the building for four or five minutes. Longoria recalled that Ray asked him how long he had been working there and how he liked his job. On the Interview Summary, Ray wrote that Longoria thought the work was easy. Regarding the difficult customer question, Ray reported, "not viewed as important, just do the job, apologize if necessary." On July 4, Longoria received a telephone call from Ray on his voice mail. Longoria saved the message:

This message is for Diego Longoria. John Ray calling with DHL, and I have some bad news. At this point in time, both for some technical legal reasons, as well as feedback from Act Fast and from Hugo at DHL, I will not be able to offer you a position starting tomorrow. If you have any questions for me, again please feel free to give me a call on my cell phone, and I will keep your name on file that as things change, I would consider

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you as one of the potential couriers. But at this point in time, I will not be able to offer that to you. Sorry about that, and talk to you later. Bye.

Roel Martinez, who drove a "bobtail" for Act Fast, applied with Third Garage on June 28. The following day he had a short interview, "[n]ot even five minutes" with Ray who asked him how he liked his job and how he could make things better. The Interview Summary notes that Martinez reported to Ray that he liked the work. Despite this, Ray found that Martinez, who responded to the question regarding how to handle a difficult customer by stating that he would "apologize" and "give them the 1-800 number," did not view that issue as "as really important. You just do the job, apologize if you have to." Ray testified that how an applicant answered that question was "extremely important ... because this set a tone on how they're going to handle any other potential customer issues." On July 4, Ray left a message on Martinez's voice mail stating that he would not be able to hire him "[d]ue to some legal requirements and feedback from Act Fast and people from DHL."

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Enrique Prieto had worked for Act Fast and various predecessors for 11 or 12 years and submitted his application on June 28. He was interviewed for about 10 minutes on Friday, July 1. Ray asked him how long he had been working there and Prieto told him. Prieto commented upon the continuity that had occurred at prior changes of contractors and stated that "it was a little unusual that we were getting interviewed, because the majority of the time when I switched contractors ... it was always from one to the next." Ray testified that Prieto "didn't answer any of my questions ... he kind of went back to some general statements that he wanted to make. He was very upset with kind of how Act Fast treated them as employees, that he wanted to see ... the people treated fairly. ... I lowered, in general, all of his scores." The Interview Summary notes that Prieto "discussed how 'we,' the drivers, want to be treated fairly." On July 4, Prieto received a telephone call from Ray who told him that he had bad news "that due to some legal issues and based on references and recommendations from David [Maldonado] and Patrick [Woods] of Act Fast and Hugo [Moya], that he would not be able to keep me on at this time" but that he would "retain my application ... in case that he would need us." Prieto asked Ray "if he could define what he meant by legal, what did he mean by legal issues." Ray answered that "it was our affiliation with labor." Prieto asked, "Do you mean the labor union?" Ray answered, "That's correct." Ray denied making the foregoing statements. I credit Prieto.

Nelson Torres had worked for Act Fast and two of its predecessors for a total of over three years. He submitted an application on June 28. He recalls that on the morning of June 29, when he arrived, the facility it was not open. When it did open, he accompanied Ray to the Act Fast office and was given a short interview. He did not observe Ray taking any notes during the interview. Ray, referring to the Interview Summary, testified that he did not interview Torres. The Summary reflects "Did not meet before [unintelligible word]." Ray did not explain the next entry on the document: "Courier selections ... Nelson did." On July 4, Ray left Torres a voice mail message stating that he was not being offered a position due to "legal reasons and feedback from Act Fast and DHL." On July 5, Torres went to the facility and confirmed that he had not been hired. Thereafter, Torres testified that "we started forming a picket line." He later called Ray and explained that he had worked for Act Fast for three years, that he was never late, and that he helped other drivers. He asked if his not being hired "related to me being in the Union." Ray, who had admitted to Prieto that his failure to be hired did relate to his union affiliation, did not respond. Whether the formation of the picket line caused Ray to be less candid with Torres than he had been with Prieto is not established.

Delgado had issues with Act Fast management being honest. Prieto complained about Act Fast, stating that the employees wanted to be treated fairly. Ray did not claim that those responses entered into his decision not to hire those two employees. The files of De Los Santos

and Quintana, applicants who were hired by Third Garage, reflect that they felt that their former employers had not treated them fairly.

Five employees who had not been Act Fast employees were hired by Third Garage. Of those five, four were terminated within two months. Two of them, Joey De Los Santos and Rosalva Quintana, testified.

Joey De Los Santos applied on June 16. He had a 15 minute interview with Ray a few days later and was invited to come in for training during the week of June 27. In response to the question regarding handling a difficult customer he answered that he was "always courteous," that he would "try to talk to them" and that he was "not a person that gets mad." He was terminated on July 29 because he had not learned his route, route 117 in Brownsville, the route formerly driven by Margarito Garcia. Although Ray could not recall when De Los Santos was terminated, he did recall that he was terminated because of his performance. The application of De Los Santos, regarding his most recent job, states that he left it because of "unsafe working conditions, discrimination."

Rosalva Quintana applied on June 20. She was interviewed for from five to 10 minutes. The Interview Summary reflects that she answered the difficult customer question by stating she would "apologize, report to company." Quintana's employment history reflects that she worked for Federal Express for over 10 years and was terminated in September 2004. She explained that, during her interview, Ray asked her about this and that she explained that she had filed a harassment complaint and, thereafter, "[t]hey started documenting me on anything that I did wrong." She was fired by Federal Express because of customer complaints. She was invited to come for training and recalls beginning that training on June 27. She was hired and worked for Third Garage for about two months. She admitted, and Ray confirmed, that she was fired because of customer complaints.

Benjamin Delimat did not testify. He applied on June 15 and responded to the question regarding how he had handled a difficult customer by citing an occasion when he could not get the load on the truck and "apologize[d], referred to customer service." Ray acknowledged that Delimat was terminated but did not recall the date or the reason.

Juan Rodriguez did not testify. He applied on June 16. In response to the question about handling a difficult customer he responded that he "never had any issues." He then stated that he would "explain situation, be patient, apologetic." As with Delimat, Ray acknowledged that Rodriguez was terminated, but he could not recall the date or the reason.

Michael McFarland, so far as the record shows, did not file an application but sent a resume by electronic mail on June 24. A notation at the bottom of the interview sheet reflects "knows the area, knows McAllen better." Immediately following that notation is the number 133, the mid-Valley route located between Harlingen and McAllen formerly driven by Prieto. McFarland is the only one of the five non-Act Fast drivers initially hired by Third Garage who is still employed.

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Ray testified that did not recall the dates of termination of any of those drivers, and he did not provide evidence from payroll records regarding the dates of those terminations. He testified that he did not recall the reason that Delimat and Rodriguez were terminated. The record reflects that two additional drivers, neither of whom had worked for Act Fast, were hired on July 14, which suggests that they were hired as replacements for Delimat and Rodriguez. Ray, although not confirming the dates of termination, agreed that "it's likely that if I fire someone, I'm hiring someone. On July 15, Third Garage did not hire Tomas Vasquez as a

regular employee because, according to Ray, "we were already staffed." When asked why the vacancies created by the terminations of the drivers who had not worked for Act Fast were not offered to former Act Fast drivers, Ray answered, "They had already been considered."

On August 4, Third Garage employed Juan Gonzales, who had applied on July 26. Gonzales was on probation for possession of more than five pounds of marijuana and had pled guilty to driving while intoxicated in 1998. Ray admits making no background check with regard to Gonzales. The Interview Summary reflects no entry with regard to how Gonzales had handled a situation with a difficult customer.

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On June 28, Act Fast driver Tomas Vasquez, a McAllen route driver, recalls filling out an application and being interviewed by Ray. He was not hired, and the application that he recalls submitting was not produced pursuant to subpoena. Ray called him on July 3 and advised Vasquez that because of "discrepancies with legal issues with Act Fast and DHL" he would not need his services. Ray was, apparently as a result of the interview, aware of the skills Vasquez possessed which included familiarity with the computer system. Vasquez's brother-in-law worked for King, the contractor that had obtained the McAllen routes. The brother-in-law informed Vasquez that he had spoken on behalf of Vasquez to Johnny Coronado, whom Third Garage had hired as its manager for the Harlingen routes.

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Third Garage, having hired only five drivers familiar with the DHL routes, did not experience a smooth transition. On Friday, July 15, Vasquez was asked to come in and help out with route 134 in Brownsville, the route formerly driven by Diego Longoria. Route 134 was being driven by a "rookie" driver. The following week, on July 20, Ray presented Vasquez with a document that portrayed him as a consultant, an independent contractor, which Ray wrote but which purports to have been written by Vasquez in which Vasquez offers his services to Third Garage. The document begins, "Dear Mr. Ray:" and continues: "I am pleased to provide you this arrangement ... regarding the scope, approach, responsibilities, and fees for my consulting service." Vasquez agreed to the terms of the independent contractor offer that he himself had purportedly proposed.

Vasquez testified that, when Ray presented him with the independent contractor document, he asked Ray "why couldn't I be a full-time employee?" Ray replied that it was "because of the fact that some charges had been brought up to him with the Union, and my name was on those charges." Vasquez asked if he could be hired if his name was removed from the charges and Ray replied that he could if Vasquez had the removal in writing. Ray denied making any statement relating to charges. He testified that he informed Vasquez that he "would like to use him for training purposes, and he [Vasquez] accepted." Ray did not deny that, upon being presented the document that he had drafted for Vasquez's signature, Vasquez questioned why he could not be hired.

I find that Ray did tell Vasquez that he could not hire him because of his participation in the Union's filing of charges. The Respondent argues that Ray should be credited because Vasquez admitted that he never had his name removed from the charge but was, within ten day to two weeks, hired as a regular employee. The fact that an employer does not carry out threatened unlawful action does not establish that the threat was not made. As the General Counsel correctly points out, citing *Alaska Pulp Corp.*, 296 NLRB 1260, 1262 (1989) the issue is "whether the threat has a reasonable tendency to restrain or coerce employees in the exercise of their Section 7 rights, not ... whether the threat has been carried out." Vasquez's testimony that, upon being presented the independent contractor document, he asked why he could not be hired as a full-time employee is undenied. Ray, although denying making any statement

about charges, did not testify to how he responded to that question. I credit Vasquez.

Ray asserted that he did not hire Vasquez as a regular employee because "we were already staffed." He did not address why he drafted the independent contractor agreement rather than simply hire Vasquez on a part-time or temporary basis. On July 20, Reymundo Garcia, one of the five Harlingen Act Fast drivers whom Third Garage had hired, was promoted to a supervisory position, reducing the number of former Act Fast drivers in the Third Garage employee complement to four. Although the record does not establish a date, Vasquez was hired as a regular employee within ten days to two weeks after Garcia's promotion.

10 C. Credibility

The most critical testimony in this proceeding regarding whether Third Garage acted with an unlawful motive was that of Owner John Ray.

Ray, in a pretrial affidavit given in the presence of his attorney, incorrectly stated that, before interviewing the applicants that had chosen to interview from those who responded to the newspaper advertisement, he "went to the Harlingen station to meet with the Act Fast employees." The record establishes that, as of June 28 when he met with the Act Fast employees, Ray had already interviewed, selected, and invited six of the driver applicants to participate in training. Ray did not testify to the number or identity of the drivers whom he requested go through training and did not deny, as De Los Santos testified, that there were six.

Although exhibiting a spontaneous and informal demeanor when addressing noncontroversial matters, Ray's demeanor when giving critical testimony was unimpressive. When called as an adverse witness pursuant to Rule 611(c) of the Federal Rules of Evidence, Ray, after giving two evasive answers was asked, "Did you call any of ... the discriminatees in this case, and tell them that you could not hire them because of legal reasons? Yes or no?" Ray answered, "No." The recording of the message on the answering machine of Diego Longoria establishes that the foregoing answer was incorrect. Thereafter, Ray was asked what he meant when referring to "legal issues." He answered that "[t]he only legal requirement I had was the contract from DHL, and in that contract, there are stipulations relative to my employees, which also included the background check, so I was being generic in my response, so as to not, you know, give any one particular person anything different than any other person. So for the most part, I gave the -- almost the exact same canned answer." The background check of the six Act Fast drivers who were not hired yielded a result only as to Garcia, and Ray did not call Garcia.

Ray testified that he did not contact any of the Act Fast drivers for positions that became vacant when the applicants that he had chosen were terminated because, "They had already been considered." That assertion was incorrect with regard to Nelson Torres whom Ray did not recall interviewing. Although Ray referred to "respect for the individual," he did not exhibit that value when falsely informing Longoria that he would keep his name on file and "I would consider you as one of the potential couriers." He made a similar assertion to Prieto.

D. Analysis and Concluding Findings

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The complaint alleges that the Respondent, by Owner John Ray, violated Section 8(a)(1) of the Act by informing an employee on July 4 that he would not hire him because of his Union affiliation and informing an employee on July 19 that he would not be hired because of his participation in an unfair labor practice charge filed by the Union. The complaint further alleges that the Respondent violated Section 8(a)(3) of the Act by refusing to hire the six Act Fast Harlingen drivers and McAllen driver Tomas Vasquez because of their union affiliation and in order to avoid hiring Act Fast employees as a majority of its workforce thereby incurring a

bargaining obligation. Finally, the complaint alleges that the Respondent violated Section 8(a)(5) of the Act by refusing to recognize and bargain with the Union.

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I have credited the testimony of employee Enrique Prieto that, on July 4, when he asked Ray to define what he meant by the legal reasons to which he referred, Ray answered that he was referring to the employees' union affiliation and, in response to a further question, confirmed that he meant the Union. Informing employees that they have been denied employment because of their union affiliation violates Section 8(a)(1) of the Act, and I so find.

I have credited employee's Vasquez's testimony that Ray informed him that he would not be hired because his name was on the charge that the Union filed. Conditioning employment upon an employee's withdrawing of unfair labor practice charges violates the Act. *Everage Bros. Market*, 206 NLRB 593, 596 (1973). Informing an employee that he will not be hired because of his participation in the filing of charges threatens denial of employment because of that protected activity in violation of Section 8(a)(1) of the Act, and I so find.

The General Counsel contends that the evidence establishes that the Respondent denied employment to the alleged discriminatees because of their union affiliation and in order to assure that less than half of its workforce consisted of former Act Fast employees, thereby avoiding a bargaining obligation and assuring that Third Garage would be "union free."

The Respondent, in its brief, contends that considerations relating to the Union played no part in its hiring decisions, that Ray nondiscriminatorily assessed "potential employees according to his own carefully formulated criteria." It argues that the fact that "some of" his selections did not "pan out" does not establish "improper or unlawful motivation." I agree that the fact that four of the five non-Act Fast drivers originally hired were terminated does not establish unlawful motivation. I do not agree that the Respondent nondiscriminatorily applied a "carefully formulated criteria" in its employment decisions. The Respondent's brief does not address the schedule prepared by Ray which confirms that he did not intend to interview existing drivers until June 28, one day before the scheduled beginning of training for "new couriers," or the evidence that he actually selected and requested six applicants to begin training on June 27. It does not comment upon the fact that documentary evidence reflects that background checks were performed only upon the rejected Act Fast drivers or the undisputed evidence that Juan Gonzales was hired without a background check. The brief does not comment upon the "Y" next to the name of the five strongest performers that Ray asked Moya to recommend or the absence of an Interview Summary with regard to any of them. Nor does it address the preparation of the independent contractor agreement for Tomas Vasquez.

Although the Respondent denies that it is a successor, the evidence establishes that, but for the failure to hire a majority of the Act Fast workforce, Third Garage would be a successor. The answer admits that Act Fast had operated under a similar contract and the record establishes that Third Garage simply replaced Act Fast as the entity providing courier service for the Harlingen routes upon which the drivers drive yellow trucks bearing the DHL logo and wear yellow shirts bearing the DHL logo. But for the failure to hire the Act Fast drivers, there would have been a "substantial continuity" of the employing entity.

The decision of DHL to bid the Harlingen and McAllen routes separately and the award to Third Garage of only the Harlingen routes, thereby resulting in a smaller unit than had been certified on April 13, is immaterial. "It is well settled that a mere diminution in the size of a successor's unit, as compared with that of the predecessor, does not "change the nature of the [employing entity] so as to defeat the employees' expectation in continued representation by their union." *Lincoln Park Zoological society*, 322 NLRB 263, 265 (1996).

The decision adopted by the Board, in *Waterbury Hotel Management LLC*, 333 NLRB 482, 547 (2000) sets out the framework for analysis in cases of this nature:

Although a successor employer is not obligated to hire its predecessor's employees, the successor may not refuse or fail to hire predecessor employees because of their union membership or in order to avoid the obligations of a successor employer under *NLRB v. Burns Security Services*, 406 U.S. 272, (1972). In *U. S. Marine Corp.*, 293 NLRB 669, 670 (1989), enfd. en banc 944 F.2d 1305 (7th Cir. 1991), cert. denied 503 U.S. 936 (1992), the Board summarized the factors that will establish that a successor violated Section 8(a)(3) by refusing to hire the employees of the predecessor:

[S]ubstantial evidence of union animus; lack of a convincing rationale for refusal to hire the predecessor's employee; inconsistent hiring practices or overt acts or conduct evidencing a discriminatory motive; and evidence supporting a reasonable inference that the new owner conducted its staffing in a manner precluding the predecessor's employees from being hired as a majority of the new owner's overall work force to avoid the Board's successorship doctrine [citations omitted].

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All of the foregoing factors are present in this case. Regarding animus, Ray informed five of the six Act Fast Harlingen drivers that they were being denied employment because of 'legal reasons' and feedback. He received no feedback from any Act Fast manager and the only "legal requirement ... was the contract from DHL, ... which ... included the background check." Ray did not call Margarito Garcia, the only driver whose background check had disclosed any legal issue. I find that the legal reasons to which Ray referred was a potential bargaining obligation. The foregoing finding is confirmed by Ray's admission to employee Enrique Prieto that the "legal reasons" to which he was referring was the employees' "affiliation with labor," the Union. The foregoing evidence establishes Third Garage's knowledge of the union affiliation of those employees and its animus towards that affiliation. *Wright Line*, 251 NLRB 1083, 1089 (1980), enfd. 662 F.2d 899 (1st Cir. 1981). cert. denied 455 U.S. 989 (1982). I find that the union represented status of the Act Fast employees was the motivating factor for the Respondent's denial of employment to a majority of those drivers in that the Respondent was seeking to avoid incurring a bargaining obligation.

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The purported rationale utilized by Third Garage in hiring, the core values to which Ray referred and customer service, is not convincingly established. Although Ray was not satisfied with the response of Roel Martinez who answered the difficult customer situation by stating that he would apologize and give the customer the 1-800 number, the similar answers given by Rosalva Quintana, "apologize, report to company," and Benjamin Delimit, "apologized, referred to customer service," were satisfactory. Jorge Delgado had no ready answer to the question, but Juan Rodriguez, who was hired, "never had any [such] issues." The Interview Summary of Juan Gonzales is blank with regard to that question, thus Ray either did not ask it or did not bother to record the answer. When Rodriquez, Quintana, Delimat, and employee Joey De Los Santos were terminated, Ray testified that Third Garage did not offer those positions to the Act Fast drivers who had previously been denied employment, "[b]ecause I had already considered them." The foregoing statement was untrue with regard to Nelson Torres because Ray could not remember interviewing him. It is also inconsistent with Ray's assurance to Longoria and Prieto that he would keep their applications in case he needed them.

With regard to inconsistent hiring practices, the credible evidence establishes that Third Garage performed criminal background checks only upon the six Act Fast drivers that it did not

intend to hire. The absence of the employment history page from the applications furnished to the Act Fast drivers meant that Third Garage would be unaware of any additional skills or relevant experience that they possessed.

Third Garage "conducted its staffing in a manner precluding the predecessor's employees from being hired as a majority of the new owner's overall work force to avoid the Board's successorship doctrine." Even though Ray sought to meet with the Act Fast drivers prior to June 28, the schedule he prepared establishes that he did not intend to interview them until June 28, at least a week after interviewing other applicants and contemporaneously with the time period in which the six applicants he had chosen were undergoing training. The fact that Third Garage chose to train six applicants suggests that it had only five positions remaining to be filled, and Moya had, at Ray's request, named the five drivers for those positions. This suggestion is confirmed by what occurred when the sixth applicant in training did not attend the hazardous material training and "didn't continue." Documentary evidence establishes that the Respondent hired 11 employees on July 5, one of whom, Johnny Coronado, was the manager. Thus, when the sixth applicant "didn't continue," Third Garage was one driver short. Despite being one driver short, Ray did not reevaluate the Act Fast drivers who were not among the five that Moya had named in order to obtain a full employee complement. Ray admitted that he received no report of performance problems regarding the remaining six drivers. Although Ray interviewed those six drivers, those interviews, four of which did not exceed five minutes and one of which Ray did not recall, were an empty formality. The Respondent was only going to fill five positions with Act Fast drivers.

The foregoing conclusion is confirmed by the failure of the Respondent to make any effort to hire sufficient drivers to cover the 11 Harlingen routes insofar as that would have required hiring an Act Fast driver. The driver who had been in training but who "didn't continue" reduced the number of new drivers to five. Although Ray, on July 4, informed both Longoria and Prieto that he would consider them in the future, he did not do so. If he had considered them, as he told them he would, and had hired either of them, former Act Fast employees would have constituted a majority of his workforce. He did not contact Torres, whom he did not recall interviewing. Thereafter, Benjamin Delimat and Juan Rodriguez were terminated on dates and for reasons that Ray testified he did not recall. No former Act Fast driver was hired. Joey De Los Santos was terminated because he did not learn his route, route 117, the route formerly driven by Margarito Garcia. When replacing him, the Respondent did not consider Garcia or Delgado, who had also driven a Brownsville route. See Galloway School Lines, 321 NLRB 1422, 1424 (1996). As already noted, the DHL contact did not prohibit the employment of Garcia, who had no performance problems with Act Fast. If Ray had taken the time to check the court records he would have known, as this record establishes, that the two ounce marijuana charge against Garcia had been dismissed pursuant to Garcia's completion of deferred adjudication. De Los Santos was terminated on July 29. On August 4, the Respondent hired Juan Gonzales who was on probation for possession of more than five pounds of marijuana. Rosalva Quintana was terminated because of customer complaints, the same reason for which she claimed that she had been unjustly terminated by Federal Express. There is no evidence of any customer complaints relating to the six Act Fast drivers who were not hired.

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Any assertion that the Respondent's staffing decisions were not motivated by its intention to remain union free is belied by the scenario played out when it needed the skills of former McAllen driver Tomas Vasquez. Ray prepared a letter to himself in which Vasquez offered Third Garage his services as an independent contractor. The letter was presented to Vasquez and he signed it. The charade ceased to be necessary when Reymundo Garcia, one of the five Act Fast drivers who had been hired, was promoted to a supervisory position. Soon thereafter Vasquez was hired as a regular driver.

The record establishes that the Respondent's "core value" was to operate "union free." To do so it limited the number of former Act Fast employees so that they did not constitute a majority of its workforce. In doing so, the Respondent, in violation of Section 8(a)(3) of the Act, refused to hire Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres because of their union affiliation in order to avoid hiring as a majority of its workforce drivers who were represented by the Union. As of July 5, there were 11 driver positions. Tomas Vasquez had been a McAllen driver. If the Respondent had hired in a nondiscriminatory manner, the six Harlingen drivers would have filled the employee complement of 11. I shall, therefore, recommend that the allegation relating to Vasquez be dismissed.

The initial charge herein was amended on October 3 to allege that the unlawful refusals to hire were to avoid a bargaining obligation. "[U]nder the circumstances here, no bargaining demand was necessary, as the Respondent's unlawful refusal to hire ... its predecessor's employees rendered any request for bargaining futile. "Smith & Johnson Construction Co., 324 NLRB 970 (1997). The Respondent, by failing to recognize and bargain with the Union, violated Section 8(a)(5) of the Act.

Conclusions of Law

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1. By informing employees that they had not been hired because of their union affiliation or would not be hired because of their participation in an unfair labor practice charge filed by the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

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2. By refusing to hire bargaining unit employees of Act Fast, the predecessor employer, because of their union-represented status in the predecessor's operation in order to avoid having to recognize and bargain with the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (3) and Section 2(6) and (7) of the Act.

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3. By refusing to recognize and bargain in good faith with the Union as the exclusive collective-bargaining representative of its drivers, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

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Remedy

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Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

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The Respondent having discriminatorily refused to hire Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres, it must offer them employment as drivers and make them whole for any loss of earnings and other benefits, computed on a quarterly basis from July 5, 2005, to date of proper offer of employment, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

The Respondent having refused to recognize and bargain with the Union, it must recognize and, on request, bargain collectively with the Union as the exclusive representative of its unit employees.

The Respondent must also post an appropriate notice.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁵

ORDER

The Respondent, Third Garage, LLC, Harlingen, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

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- (a) Informing employees that they have been denied employment because of their union affiliation or would not be hired because of their participation in an unfair labor practice charge filed by the Union.
- (b) Refusing to hire bargaining unit employees of Act Fast, the predecessor employer, because of their union-represented status in the predecessor's operation, or otherwise discriminating against employees to avoid having to recognize and bargain with Teamsters Local Union 657 affiliated with International Brotherhood of Teamsters, the Union.
 - (c) Refusing to recognize and bargain in good faith with the Union as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

Included: All delivery drivers employed by Third Garage, LLC, at its facility at 3302 Heritage Way in Harlingen, Texas.

Excluded: All other employees, including office employees, guards, managers and supervisors as defined in the National Labor Relations Act.

- (d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Within 14 days from the date of the Board's Order, offer Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres, who would have been employed by the Respondent but for the illegal discrimination against them, employment as drivers, or, if such positions no longer exist, in substantially equivalent positions, without prejudice to their seniority and other rights and privileges previously enjoyed, discharging if necessary any employees hired in their place.
- (b) Make whole Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez,
 Enrique Prieto, and Nelson Torres for any loss of earnings and other benefits they may have
 suffered by reason of the Respondent's unlawful refusal to employ them, with interest, in the manner set forth in the remedy section of the decision.

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⁵ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

- (c) Within 14 days of the Board's Order, remove from its files any reference to the unlawful refusal to hire Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres and notify them in writing that this has been done and that the unlawful refusal to hire will not be used against them in any way.
- (d) Recognize and, on request, bargain collectively with the Union as the exclusive representative of the Respondent's employees in the unit above, with respect to rates of pay, wages, hours, and other terms and conditions of employment and, if an agreement is reached, embody it in a written contract.
- (e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (f) Within 14 days after service by the Region, post at its facility in Harlingen, Texas, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 4, 2005.

(g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. May 10, 2005

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George Carson II
Administrative Law Judge

⁶ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the National Labor Relations Board An Agency of the United States Government

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union Choose representatives to bargain with us on your behalf Act together with other employees for your benefit and protection Choose not to engage in any of these protected activities

WE WILL NOT inform employees that they have been denied employment because of their union affiliation or would not be hired because of their participation in an unfair labor practice charge filed by the Union.

WE WILL NOT refuse to hire bargaining unit employees of Act Fast, the predecessor employer, because of their union-represented status in the predecessor's operation, or otherwise discriminating against those employees to avoid having to recognize and bargain with Teamsters Local Union 657 affiliated with International Brotherhood of Teamsters, the Union.

WE WILL NOT refuse to recognize and bargain in good faith with the Union as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

Included: All delivery drivers employed by Third Garage, LLC, at its facility at 3302 Heritage Way in Harlingen, Texas.

Excluded: All other employees, including office employees, guards, managers and supervisors as defined in the National Labor Relations Act.

WE WILL, within 14 days from the date of the Board's Order, offer to Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres, whom we would have employed but for our illegal discrimination against them, employment as drivers, or if such positions no longer exist, in substantially equivalent positions, without prejudice to their seniority and other rights and privileges previously enjoyed, discharging if necessary any employees hired in their place.

WE WILL make whole, with interest, Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres for any loss of earnings and other benefits they may have suffered by reason of our unlawful refusal to employ them in the manner set forth in the remedy section of the decision.

WE WILL, within 14 days of the Board's Order, remove from our files any reference to the unlawful refusal to hire Jorge Delgado, Margarito Garcia, Diego Longoria, Roel Martinez, Enrique Prieto, and Nelson Torres and notify them in writing that this has been done and that the unlawful refusal to hire will not be used against them in any way.

WE WILL recognize and, on request, bargain with the Union as the exclusive representative of the employees in the above described appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a written contract.

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WE WILL NOT in any like or related manner interfere with, restrain, or coerce any of you in the exercise of your rights guaranteed by Section 7 of the Act.

10		THIRD GARAG	THIRD GARAGE, LLC (Employer)	
		(Employer		
	Dated B	у		
15		(Representative)	(Title)	
20	The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov . 819 Taylor Street, Fort Worth TX 76102-6178			
25		aylor Street, Fort worth TX 76102-6178 978–2921, Hours: 8:15 a.m. to 4:45 p.m		
	THIS IS AN OFFICI THIS NOTICE MUST REMAIN POSTED NOT BE ALTERED, DEFACED, OR CO NOTICE OR COMPLIANCE WITH ITS F	IAL NOTICE AND MUST NOT BE DEFACED FOR 60 CONSECUTIVE DAYS FROM THE DIVERED BY ANY OTHER MATERIAL. ANY QUEROVISIONS MAY BE DIRECTED TO THE AB	BY ANYONE DATE OF POSTING AND MUST ESTIONS CONCERNING THIS	
30	CC	DMPLIANCE OFFICER, (817) 978–0678		
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